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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	
)	
PCS 2000, L.P.)	File Nos. 00414-CW-L-96,
)	et al.
For Broadband Block C Personal)	
Communications Systems Facilities)	
)	
and)	
)	
Westel Samoa, Inc.)	WT Docket No. 97-199
)	
For Broadband Block C Personal)	File No. 00560-CW-L-96
Communications Systems Facilities)	
)	
and)	
)	
Westel, L.P.)	File Nos. 00129-CW-L-97,
)	et al.
For Broadband Block F Personal)	
Communications Systems Facilities)	
)	
and)	
)	
In the Matter of)	
)	
Anthony T. Easton)	
)	
To: The Commission		

ERRATUM TO REPLY TO OPPOSITIONS
TO MOTION TO CONSOLIDATE

Anthony T. Easton hereby amends his Reply to Oppositions to Motion to Consolidate by providing the Commission with the attached pages 8 through 10 that have been corrected to include the top line of page 8 that was dropped when final corrections were made to the pleading. The carry-over sentence from page 7 is corrected to read:
"It should be noted at this point that the Commission may enlarge

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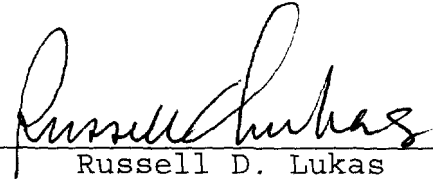
0214

the issues in the Westel hearing without regard to the question of its jurisdiction over Mr. Easton."

Respectfully submitted,

ANTHONY T. EASTON

By

A handwritten signature in dark ink, appearing to read "Russell D. Lukas", written over a horizontal line.

Russell D. Lukas
Thomas Gutierrez
George L. Lyon, Jr.

His Attorneys

Lukas, Nace, Gutierrez
& Sachs, Chartered
1111 19th Street, N. W.
Twelfth Floor
Washington, D. C. 20036
(202) 857-3500

March 6, 1998

enlarge the issues in the *Westel* hearing without regard to the question of its jurisdiction over Mr. Easton. While Mr. Easton could be made a party (or could seek to intervene), the Bureau does not need him to be a party to pursue the issue of whether he intentionally misrepresented material facts. The Bureau already intends to subpoena Mr. Easton to testify at the *Westel* hearing. He will be equally available to testify with respect to his alleged misrepresentations.

VIII

Mr. Easton assumes that the Commission will act on his petition and lift the *Westel* stay in the very near future. The Commission should act on the Trust's petition at the same time if for no other reason than it was filed "more than a year ago". Clear Comm Opp. at 7.

Contrary to ClearComm's claim, issues going to the Commission's approval of the "squeeze out" of the Trust are not "completely independent" of the two other PCS 2000 bidding error-related matters. *Id.* at 12. There is a direct link between the Commission's yet-unproven allegations of wrongdoing by Mr. Easton and the "financial harm" suffered by the Trust when the general partnership interest in PCS 2000 (ClearComm) was wrested from Unicom Corporation ("Unicom"). *PCS 2000 MO&O*, 12 FCC Rcd at 1692.

The Commission gave its express blessing to the "squeeze out", because the primary purpose of the ouster was "to remove Messrs. Easton and Breen from the ownership structure of PCS 2000." *Id.* It repeatedly lauded the "aggressive steps" that were taken, *id.* at

1689, to remove the "wrongdoers" from PCS 2000's ownership and control, *PCS 2000 NAL*, 12 FCC Rcd at 1717. In fact, the Commission went so far as to contemptuously state that the Trust was squeezed out by the Unicom shareholders in an attempt to "cleanse" the applicant of those responsible for the wrongdoing. *Id.* at 1703.

The tenor of the Commission's findings stood to prejudice the Trust in the state court action it brought against Unicom (and others) relating to the squeeze out. See Trust Pet. at Attachment 1. Therefore, the Trust simply asked the Commission to provide declaratory relief that would basically "temper" its ruling (and its language). See *id.* at 12-13. As Mr. Easton understands it, the Trust's request for relief boiled down to the following:

By characterizing the Trust's ouster as "an attempt to cleanse the applicant of those responsible for the misrepresentations", the Commission not only portrays the Trust as a wrongdoer, but it seems to provide justification for the manner in which the Trust was ousted. **** The Trust asks the Commission to revise its ruling so that it cannot, even by a stretch of argument, be cited by PCS 2000 to justify its uncompensated taking of the Trust's property. ^{2/}

While the Trust's action has been dismissed, ClearComm expects that the law suit will be refiled in Puerto Rico. ClearComm Opp. at 4 n.6. Therefore, like ClearComm, the Trust would have a "vital" interest in any proceeding that may involve a collateral review of the Commission's *PCS 2000 NAL* findings. It follows that the Trust would have a vital interest in the Commission's decision on the

^{2/} Trust Pet. at 14 (citation omitted).

scope of the *Westel* hearing.

By designating an issue going to whether Mr. Easton actually engaged in wrongdoing, the Commission effectively would provide the Trust the equitable relief it seeks. Until that issue is resolved in the *Westel* proceeding, ClearComm cannot claim in any court that there has been a final determination by a federal agency that the uncompensated taking of the Trust's property was for the "legitimate business purpose" of correcting proven misconduct. *PCS 2000 MO&O*, 12 FCC Rcd at 1699.

Regardless of the outcome of its current deliberations, the Commission's disposition of Mr. Easton's petition provides the appropriate opportunity for it to provide a "reasoned explanation" of its treatment of the Trust. See Trust Pet. at 13. The Commission owes the Trust and Mrs. Easton that much.

IX

ClearComm claims that Mr. Easton points to "absolutely nothing" in the *Westel* record that undermines the *PCS 2000 NAL*. ClearComm Opp. at 3 n.4. Perhaps not in his Motion, but Mr. Easton has done just that in previous pleadings. See, e.g., Response to Comments of ClearComm, L.P. at 12-21 (Dec. 4, 1997).

Finally, it appears that ClearComm has not reviewed all the information uncovered during discovery in the *Westel* proceeding, because it claims to be "aware of no evidence that undermines the Commission's findings with regard to Mr. Easton." ClearComm Opp. at 4. In fact, discovery has undermined most of the Commission's findings as to Mr. Easton as well as its conclusion that there was

CERTIFICATE OF SERVICE

I, Kimberly A. Verven, a secretary in the law offices of Lukas, McGowan, Nace & Gutierrez, Chartered, do hereby certify that I have on this 6th day of March, 1998, had a copy of the foregoing ERRATUM TO REPLY TO OPPOSITIONS TO MOTION TO CONSOLIDATE hand-delivered to the following:

*Honorable Arthur I. Steinberg
Administrative Law Judge
Federal Communications Commission
2000 L Street, N. W.
Room 229
Washington, D. C. 20554

Katherine Power, Esquire
Enforcement Division
Federal Communications Commission
2025 M Street, N. W.
Room 8318
Washington, D. C. 20554

David H. Solomon, Deputy General Counsel
Office of General Counsel
Federal Communications Commission
1919 M Street, N. W.
Room 614
Washington, D. C. 20554

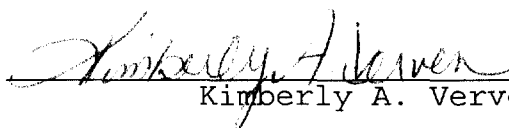
John I. Riffer, Associate General Counsel
- Administrative Law
Office of General Counsel
Federal Communications Commission
1919 M Street, N. W.
Room 610
Washington, D. C. 20554

*A. Thomas Carroccio, Esquire
Brian Cohen, Esquire
Ross Buntrock, Esquire
Bell, Boyd & Lloyd
1615 L Street, N. W.
Suite 1200
Washington, D. C. 20036

*Robert L. Pettit, Esquire
Richard H. Gordin, Esquire
Bryan N. Tramont, Esquire
Wiley, Rein & Fielding
1776 K Street, N. W.
Washington, D. C. 20006

*Julian P. Gehman, Esquire
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N. W.
Washington, D. C. 20006

*Tony J. Tanke, Esquire
Tanke & Willemsen
541 Middlefield Road
Redwood City, California 94063



Kimberly A. Verven

*Via U.S. Mail